An ADDRESS to the Gentlemen and others of the County of Devon.

Octob.r 1748.

Price six Pence.

Gough
Devon. addt.

BIBLIOTHECA · BODLEIANA

An Inſcription for a Monument to be erected in *Weſtminſter Abbey.*

HIC INJURIOSO TUTUS A LUDIBRIO,

HIC INJURIOSO TUTUS A LUDIBRIO,
REQUIESCIT IN PACE VIR INFELIX,
HENRICUS ROBERTS, ARMIGER.
MISERANDÆ SORTIS JUVENIS,
MELIORE FATO DIGNUS.
PLACIDUS INGENIO, BONUS ÆQUUSQUE.
TAM PROPTER BENEVOLUM EJUS IN OMNES
ANIMUM, QUAM MORES CANDIDISSIMOS,
NON DILIGENDUS SOLUM SED AMANDUS PLURIMUM.
PERANTIQUA ET HONESTA STIRPE ORIUNDUS,
ET ULTIMUS.
CUJUS OPULENTIÆ SATIS; HEU NIMIS!
CONSULUERE PARENTES; SIQUIDEM DIVITIIS MODO
FACTUS EST EGREGIE MISER, ET AMPLA FORTUNA
IN CAUSA FUIT, CUR MULTUM DIUQUE
SUSQUE DEQUE JACTATUS (EXEMPLO NOVO) ARCTÆ
TANDEM CUSTODIÆ, DOMESTICIS ET COGNATIS OMNIBUS
PROPULSIS, NOVERIT MISERIAS,
QUIBUS IMPAR SUSTINENDIS,
MOERORE ET LUCTU MORTE FESTINATA,
QUIETUS, METUENS, OPPORTUNUS INJURIÆ,
ANIMAM EXHALAVIT, JULII 11, 1745.
ANNO ÆTATIS, 28.
MENSE CUSTODIÆ TERTIO.

So when his fellow-ſervants ſaw what was done, they were very ſorry, and told unto their Lord all that was done. S. MATT. XVIII, 31.

Vos quibus Imperium, qui
Mundi fræna tenetis,
Ne tantum tolerate Nefas - -

Sirs,

It will be a Surpriſe to many that I write to the Gentlemen &c. of your County in general, and not to ſome particular Perſons, but the Subject of my Letter will ſhew the neceſſity of this addreſs.

I know there are very many Gentlemen of great Honour and undoubted Probity amongſt you, who have had no Part in this Scene of Iniquity, but have given publick Marks of their Abhorrence of the Proceedings and do ſhew a deep concern for the Victim of them.

The Caſe of Mr. Roberts is made publick on the other Side of the Water, and diſperſed throughout the Continent: All Europe at this Time make Reflections upon it, very prejudicial to the Honour of Jury's, and of the whole Body of Gentlemen out of which thoſe Jurymen were Choſen.

Numbers of Foreigners are induced to Condemn our Laws, as believing Tricking and Knavery countenanced by them; But they do not diſcern that the Fault lies in Abuſe of Forms, and not in the true Spirit and Intent of our Law. The common Law of England is common Senſe, and whatſoever is repugnant to That, is repugnant to Law.

My Regard for your Characters moves me to preſs you to think ſenſibly of what great Importance it is to you, ſeaſonably to remove this Diſgrace; for a Delay will fix a Prejudice againſt you in the mind's of all, who read the Caſe of Mr. Roberts:

berts: And who indeed hath not read it? The Story makes a ſtrong Impreſſion every where, and it ought to Affect more cloſely the People of your County.

Mr. Roberts lived amongſt you, and many of you knew him well, he was viſited, beloved, and eſteemed by all his Acquaintance, for his ſweet Diſpoſition, his modeſt Carriage, and decent Behaviour. No one of you all can Inſtance upon your own Recollection, or by the Report of others, any ſingle Word or Action of his, misbecoming a rational Man, to ſpeak and do.

Likewiſe Dr. Finney was born in your County from a Family of good Condition for many Generations hoſpitable, well eſteemed, and charitable, as their publick Benefactions in their Pariſhes demonſtrate to his Day; He lived many Years amongſt you. None know better than yourſelvs his upright Manner of Life and Converſation, and every one of you ought in Juſtice to give this Teſtimony of his Conduct, to the World.

I am aſſured in your own Minds you Condemn the bad means and wicked Artifices that were uſed by *particular Men* to raiſe Prejudices, and to render him odious, thereby to Effect their Deſigns upon Mr. Roberts.

There could be no Danger of your being in the Number of his Perſecutors, who knew him but on the contrary all you muſt be ſenſibly affected with his unjuſt Sufferings.

The Wrongs done to him, and to the deceaſed Gentleman, Mr. Roberts, his Brother in Law, muſt provoke

provoke your Indignation and excite your Horrour, as you have ſeen their Houſes plundered their Eſtates and Goods ſeiſed, and at this time poſſeſs'd by ſtrangers thro' Perjuries and the knaviſh Arts of Attorneys.

It becomes you, Gentlemen, to think how this Scandal may be wiped off, for Conſider, it will be a brand of Infamy for Ever upon the Engliſh Name, if ſuch black Crimes are ſuffered and not puniſhed, Crimes ſpringing from that Root of all Evil, a Covetuous deſire of other mens Goods.

You ſee what Methods were taken to Seduce and blind Some, to bribe others, and what is worſt of all, *tempering with, prepoſſeſſing, and prejudicing Jurys*, an Example of moſt frightfull conſequences to you.

It is difficult, I allow, to ſay what attonement can be made the Deceaſed Mr. Roberts, for depriving him of his Goods and his Life; But his Memory calls for a Juſtification; and ought to be cleared from the foul aſperion thrown on it by the unjuſt Verdict of the Jury, which was the Cauſe of all his Misfortunes, and the Ruine, and Extinction of the Family.

The Truth muſt be told plainly. Mr. Roberts was no other than a *modeſt Man*, of *weak Nerves*, and of *tender Spirits*, and ſo was eaſily overawed by the Hurry of *Courts of Juſtice*: His temper and Conſtitution was unhappily known to the Proſecutors &c. for the bantering abuſes of *Commiſſioners*, *Counſel* and *others* ſo depreſſed his Spirits that he never could exert himſelf with courage to

withſtand them, but ſunk away as a lifeleſs Perſon in open Court and thereby gave great Matter of Triumph to the Proſecutors Counſel &c. who fail'd not to make Uſe of this Advantage over him upon all occaſions.

He was ſo far from being a perſon frantick or deprived of the uſe of his Reaſon, that he never was from his Cradle disordered in mind, but improved gradually by Inſtruction according to his Years, and had good Judgment, and a true Senſe of his Sufferings throughout, the whole Courſe of his Afflictions, and endured them with Reſignation, and Temper, which is preferable to the greateſt Endowments and Talents of mind. And this chriſtian Moderation and Patience was his Support to his laſt Moments, for he breathed out his Life. *With thanking God for delivering him out of all his Troubles.* Theſe excellent Qualities notwithſtanding, Gentlemen, by the haſty Verdict of your Jurymen, Mr. Roberts was delivered over a Prey to his mercileſs Enemies; The fatal Conſequences of which you have already ſeen, and they open to your View ſtill daily, more and more. Without this Verdict, which yourſelves know to have been moſt fraudulently obtained, He had now been in the undiſturbed and quiet Poſſeſſion of his Lawfull Inheritance. He had not been drag'd from his own Houſe to a Priſon. But would have lived hoſpitably and charitably, as his Fathers before him did in the boſom of his Country and under the Protection of its Laws with a Wife and Children the Probable Fruits of his intended Marriage.

riage. So you would have ſeen a generous Family continued, whoſe anceſtors have been deſervedly in high Eſteem for Ages paſt. That Family now is moſt wickedly deſtroyed by this unjuſt Verdict.

But I would not, Gentlemen, be underſtood ſo, as if I meant to charge every Man, who was upon the Jury, with this horrible Guilt, without exception, God forbid, I ſhould! Many of thoſe, who ſerved upon the Jury at Exeter, and who ſubſcribed their Conſent to the Verdict, I know, were impoſed upon and miſlead by the Crafty Intrigues and Roguery of the Commiſſioners and the Swarms of attorneys following them, who artfully avoided putting the Legal Queſtion, whether Mr. Roberts was *Idiot or Lunatick*, the only thing their Commiſſion Waranted them to try. They well knew Mr. Roberts was neither the one nor the other, and whatſoever Bribes they could offer to Some, Perſuaſions they could uſe, or Prejudices they could inſtill into others, no man would be ſo Shameleſs and barefaced a Villain to affirm Mr. Roberts Idiot or Lunatick, plainly and without Reſerve. The Commiſſioners therefore came well inſtructed to put the Queſtion to the Jury in ambiguous uncertain Terms, different from the true meaning and Intention of the Law. And of their own Authority ſubſtituted inſtead of *Lunatick*, *unſound Mind*, the Meaning of which Words few of the Jury underſtood tobe *Lunacy*, or ſuſpected the bad uſe that would be afterward'-made of it, when this deceit was impoſed upon

Some of the Jurymen, the others were too eaſily drawn after into the Snare. This was the viſible Conrrivance of Commiſſioners to ſerve the wicked Purpoſes of the Proſecutors.

You have Opportunity every day toknow the Truth of theſe Facts, from the Mouths of the Jurymen themſelves, for there are amongſt them ſeveral, who ingenuouſly own and diſcover the Cheat, without reſerve; and openly declare their abhorrence of the Trick that was play'd them. All who deſire to know, may hear from them, that they were deceived, that they did not mean, or intend their Verdict ſhould imply *Lunacy*; They Condemn themſelues for Yeilding by their Silence and Irreſolution to ſuch Enormous abuſes of our Laws. They lament their being made the Inſtruments of an Intrigue, the unhappy Conſequences of which they did not ſee, till it was too late to remedy them.

It is to theſe Gentlemen, we addreſs our ſelves; to ſuch of them, as theſe, we muſt apply, not to make them more ſenſible of the Injuſtice of their Verdict, for in all Company's and upon every Occaſion they Confeſs their Shame and Sorrow for what they have done.

As for thoſe who did the Proſecutors Work for Money; Altho they ſuffer in Mind the Remorſe of Judas and repent as he did, ſaying: *I have ſinned in that I have betraied innocent Blood*; yet we don't hear they have like him brought again the *Pieces*. Leaving ſuch men to the Scourge of their own Conſciences.

To

To others of the Jury we apply, who are men of Honour and good Principles, and who had no wicked Intention, but were mislead; and ſuffered by their Silence, a Verdict tobe recorded in ſuch Terms, as the Proſecutors were pleaſed to dictate. I ſay, to theſe only we apply for Redreſs; And it is a Duty incumbent upon them to remedy to the beſt of their Power what hath been done ſo very unjuſtly by their neglect; and to concur in rectifying Proceedings, which muſt be a laſting Blemiſh on their Names, if this publick Juſtice be denied by them.

It is not ſufficient for them to ſay we did not intend to deprive Mr. Roberts of his Eſtate, or that he ſhould be ſold as a Slave, firſt by the Proſecutors to Dean Lynch, and by him again to Lightenhouſe and then ſhut up and ſtarved in a Garret &c. We did not fore ſee that the Verdict to which we were ſo unhappy to conſent, would produce ſuch *horrible Crimes* and be attended with ſuch *Miſchievous Conſequences.*

All this goes for nothing, you are ſtill conſenting as long as your *Names* remain upon Record to the Verdict, by which to Appearence you unanimouſly upon your *ſolemn Oath's* return Mr. Roberts a *Lunatick*, and *that he had not enjoyed an Interval of Reaſon for* 12 *Years*; altho' this is manifeſtly untrue and the Contrary is ſo publickly known, to the World and to yourſelves. Your *Names* are confounded, and are not as yet to be diſtinguiſhed from thoſe of the *abandoned Wretches*, who acted only by the Dictates of the Pro-

ſecutors Attorneys. Make, Gentlemen, your ſerious Reflections upon this. To do Juſtice and to retrieve Matters in ſome Meaſure is ſtill in your Power; You have time and opportunity left to extricate your ſelves; and leave thoſe to the Severity of the Laws, who deſerve it.

The Method of doing this is obvious. Declare publickely to the World, like honeſt Men, what you have ſaid, and ſay to your Friends every day of your Lives, that Mr. Roberts was neither *Lunatick* nor *Idiot*, and that you did not deſign to Report him ſuch, that you did not know your Verdict would be ſo conſtrued as to imply *Lunacy*. That you underſtood not the Words *unſound Mind*, in that Senſe; And that Mr. *Roberts had been a Madman, and diſtracted, for the full Space of* 12 *Years*, were Words contrary to the *Truth* and all *Evidence*, and fraudulently inſerted in the Verdict. Obſerve, Gentlemen, this you have declared to hundreds, and you now Repeat it to your Friends; And as the Verdict paſſes upon the World for Yours, Your Juſtification of yourſelves ought tobe as publick; Common Juſtice requires that you openly diſown the Verdict. If you will not, you muſt partake of the Disgrace, and Share the Infamy with thoſe, who ſold themſelves to the agents of Mrs Pyke and Sr. Stephen Anderſon to conſpire and Effect the Ruine of your innocent Countrymen Mr. Roberts and Dr. Finney.

I am well aſſured, Gentlemen, that not one of the Jurymen who firſt reported Mr. Roberts Lunatick

Lunatick or who confirmed the Verdict of Exeter, againſt Mr. Roberts in the Court of K—s Bench at Weſtminſter, perſonally knew him, or had ever ſeen him till that Day, ſo that the Sherifs appointment and Choice of the Jury was manifeſtly illegal, for the Law ſays, Jurymen ſhall be E Vicineto or Neighbourhood of the Perſon impeached, who are ſuppoſed beſt to know the Partys. You, Gentlemen, who were then preſent in Court can beſt tell upon what Grounds the Confirmation of that Verdict was founded.

Is it not true that the Jury unanimouſly declared Mr. Roberts neither *Idiot nor Lunatick?* And when the Word's *unſound Mind* were propoſed to the Jury. they ſaid he was a weak Man, but not of *unſound Mind.* Did not Mr. Maſterman tell the Jury, Gentlemen, *Unſound and Weack is the Same, I ſuppoſe you intend to do his Buſineſs Effectu ally?* Did not Sr. Wm. Morrice the foreman reply, *if ſo, you may put him down of unſound Mind?* Did not Sr. In. Rogers and others of the Jury object aloud and ſay, *no, no, he is not a Perſon of unſound Mind?* What then Silenced theſe Gentlemen, and cauſed them to Submit to Maſtermans Dictates? now was their Time to object, how came they to yield to this groſs Impoſition? By whoſe Management or Connivance was it, that Maſterman was not inſtantly chaſtiſed for his Treachery and Preſumtion? Why was he ſuffered to Change the true Verdict of the Jury viz neither *Lunatick nor Idiot*, and to Regiſter in the Name of the Jury a Verdict directly contrary to their Report,

Jury

viz. *Lunacy without an Intervall for* 12 *Years?* This Man is Maſter of the Crown office upon Impeachments of Treaſon or other State Crimes, you may be innocent, but ſhould his Face &c. be againſt you, as little Mercy may be ſhewn you as to Mr. Roberts and his Fate be yourown.

It is well known, the forwardneſs of ſome of the Jury overawed the reſt, and hindred their ſpeaking out, to prevent the Miſchief: Thus were they hurried on to a Concluſion, leaſt ſome Incident might intervene to diſappoint or diſconcert the Reſolutions of the preceeding *Night at the Tavern.* All the Jurymen are now living amongſt you and can teſtifye to you what paſſed in that Cabal.

Mr. In. Polluxſon the Sheriff preſided at this Meeting and was *Sollicitor* for the Proſecutors, that moſt Zealous promoter of their Cauſe can likewiſe well inform you of Particulars.

That Party's ſhould meet and conſult with their own advocates and Attorneys is Natural. But that Jurymen who are ſworn to be impartial, and not to ſuffer themſelves to be prejudiced, but to try and determine according to Evidence given in open Court only. That Jurymen, I ſay, ſhould meet the Sollicitors and Witneſſes of one Party at a Tavern, there to concert how to deſtroy, and Ruin the Fortunes of the oppoſite Party's, by a Verdict to be given before Judges the next Day, is ſuch monſtrous Iniquity, and Proſtitution that if there is no Law in being to inflict Puniſhments adequate to the Crime of ſuch horrid Proceedings,

a Law

a Law ſhould purpoſely and inſtantly be made for the Common good of the Nation. Aſk the Jurymen was it not reſolved at the *Feathers Tavern* to force Mr. Roberts out of Court the next day, that the Reaſon of their Determination might be a Secret?

The Commiſſion directed them to trye Lunacy: The Commiſſioners and Jury were warranted to trye nothing but Lunacy. Inform your Selves, aſk each Juryman whether the Tenour of their Commiſſion was obſerved, or their Proceedings thereupon were agreeable to the Laws? Each and all of the Jury muſt ſay they were directed by Mr. Thomas Gerrard and the other Commiſſioners to trye the Capacity only of Mr. Roberts for that *the Lord Ch---r for Good and Wiſe Purpoſes, had thought proper to extend the Laws upon this Occaſion.* Strange Power! a Strange Enquiry! liable to infinite abuſes, which muſt inevitably draw on the ruine of many Family's as well as Mr. Roberts's. Our Kings have been dethroned for ſuſpending Laws, and for the Breach of them. And, Good God! Do we live to ſee an Arbitrary Power Erected within a limited Monarchy, and the Property of every Engliſh Man depending only upon the *Will* of a ſingle Perſon? *Grave etiam ſi videatur, ut in aula unius Pectoris, omnes omnium fortunæ, vario agitentur diſcrimine, Fatum ſubeant & ſucumbant ſays* Sr. Henr. Spelman: *Eximiam hanc prærogativam cautius libavit immo reſpuit, priſcus quidam Cancellarius, ſeu jugulo legis minitantem; mordacius autem ſucceſſores &c. atque inde olim*

olim Rixæ, nuper Lites, Spel. Gloſſ. There are among you many learned Men, well ſkilld in the Laws of our Country, Let'em tell you whether from their reading or Obſervation they find at any Time a Power in a Judge, when there is no Evidence againſt a Perſon impeached, to commiſſion a Body of Men to enter his houſe at *Will* for a long Space of Time, to watch his Actions with a View in an Unguarded hour to diſcover ſome what to accuſe him of and thereby to convict him. When a Man is inſulted and abuſed in his own Houſe by one or more of thoſe Commiſſioners, his complaints ſhall not be heard, vid. Pet. Bag. office Affidavits againſt. Swinburn Eſqr. But when thoſe Commiſſioners *prove too honeſt* and give Teſtimony in favour of the accuſed Perſon, their Evidence ſhall not regarded.

Is there Example of this or of a Judge at any Time authorized to Strain the Laws, or to exceed the bounds preſcribed him by the Legislature? Lord Chancellor Bacon ſays Wiſely: *It is the Office and Duty of a Judge to do Juſtice i. e. to Expound and interpret Laws, not to make them, Jus dicere, non dare. If Judges were allowed or indulged the Prerogative of Extending or Varying the Laws, a Train of Miſchiefs muſt fall upon a Country, pluet ſuper eos laqueos, it will be a ſhower of ſnares upon the People, it, would be Papal Power or as bad. No man can be covered from it.* The innocent Mr. Roberts is a ſad and Melancholy Inſtance of it before your Eyes; firſt tortured (as in ſome Countrys they do witches) by cruel mockings

ckings and long Abſtinence from ſleep, then ſold from one Man to another as a ſlave, ſtripd of his Inheritance and Fortune, impriſoned, his Death, the Extinction of his Family, the Ruin of all his Relations and of his Brother in Law and his Family, all theſe fatal Conſequences of Mr. Gerrards Wicked Extenſion of the Laws at Exeter to miſlead and prompt a Jury to ſubſcribe to a Verdict which themſelvs and all World know to be falſe. Gentlemen of the firſt Rank and Character appear for Mr. Roberts, offer their Teſtimony in favour of his Sanity and Capacity, but are not heard, *Captious Queſtions* are pnt to them, they are brow beat and inſulted by the Commiſſioners, and their Evidence is neglected. A Mob is raiſed by the Proſecutors, Mr. Roberts and his Witneſſes baſely inſulted, Mr. Roberts is cruelly harraſſed for three days 13 Hours each day by the Jury under Pretence of examining into *his Capacity*, Wine is thrown in his face, and with his Wig turned, he is expoſed to the Mob, he is dragd out of his Coach thro the ſtreets *to try his Behaviour when provoked* to Paſſion. Full Proof of all theſe Practices is made to the Ch---r by Affidavits, not contradicted. So He obtains the Benefit of a new Tryal, but obliged to ſtand Tryal again at Exeter. *The firſt Jurymen turn Sollicitors for the Proſecutors.* Mr. Roberts is terrefied, falls ill of a Feavor, Advantages taken of it by the Proſecutors; They bring on his Tryal in his Abſence. His Counſel are diſcouraged by the ill Behaviour of the Jury, refuſe to plead before them and throw

up

up their Briefs. The Profecutors get a *Second Verdict* againſt him and an *Increaſſe of Sollicitors*. Mr. Roberts applies again upon Affidavits of theſe Facts, his Affidavits are received, another Tryal thereupon is granted by the Court of K--gs Bench. Many Thouſand Pounds expended in Law, to enquire What? whether his Capacity was adequate to his Fortune and his *Fitneſs* to poſſeſs an Eſtate the Inheritance of his Fathers.

Doctor Mead, Dr. Monroe, Dr. Nichols, Dr. Andrews, Dr. Holmes Dean of Exeter, Mr. Furſman Chancellor of Exeter, Dr. Bearcroft Preacher of the Charterhouſe and Chaplain to the King, Dr. Regis Chaplain to the King, Thomas Balle Eſqr. late Member in Parliament for Exeter, Slingsby Bethel Eſqr. Member in Parliament for the City of London, John Belfied Eſqr. Serjeant at Law, Tho. Henderſon Eſqr. receiver of the firſt fruits and tenths, William Smith Eſqr. John Shapleigh Eſqr. William Ruſſel Eſqr. John Haynes Eſqr. Regiſter to the Arch-Bp. of Canterbury, Nicholas Cove ſenior Eſqr. Mr. Sommers, Mr. Tryan, Mr. Ireland Merchants of London, the Several Maſters who taught Mr. Roberts Mathematicks, Muſick and accounts, all the afore named Gentlemen ſwore fully in favour of Mr Roberts Sanity snd Capacity, *ſee their Affid. in Petty Bag Off.** Many

* See, Caſe of Henry Roberts Esqr. 3 Edit. Factum, by Pierre St. Paul, Profeſſeur a Malines. Student of Leydens Reply to Radclif, Merchant of Rotterdams Anſwer to Radclif. Caſe of Roberts by a Member of Univerſity, Dublin.

Many of theſe Gentlemen had been acquainted with Mr. Roberts for many Years, and all perſonally knew him home to the Day of his Confinement. Theſe Gentlemen had all made Tryal of Mr. Roberts Judgement aud Capacity both in accounts and in writing Letters of Buſineſs in their Preſence, which Letters are ſtill preſerved and ready to be produced. Is it poſſible that theſe Gentlemen, (whoſe Education never was in any low Office where they could learn to trifle with Words and equivocate with Oaths,) ſhould ſwear otherwiſe than *Truth?* Can any reaſonable Man doubt of the *Truth* of what they have depoſed upon their *Oaths* concerning Mr. Roberts? Did not the Commiſſioners appointed by the Lord Ch r to inſpect Mr. Roberts many Months, to obſerve his words and Actions, after various Tryals of his Capacity, give the fulleſt Teſtimony of his *Sanity* and *Capacity?*

If further Evidence of his Sanity was wanted; do not the Gentlemen who viſited Mr. Roberts under his confinement at Canterbury give teſtimony of his ſenſible and decent Behaviour alſo?

Reaſon is Natural to Man, *Qualitas quæ ineſſe debet ineſſe præſumitur, ideo nemo præſumitur Furioſus, ſed potius ſanæ Mentis*, theſe are maxims of Law, and therefore Lawyers affirm that two Witneſſes who depoſe de ſana Mente of a Perſon are more to be Credited than a thouſand Witneſſes who depoſe the contrary. But againſt Mr. Ro-

berts the Profecutors themſelves do not pretend to ſay they gave *a ſingle Evidence* of Lunacy or Inſanity, nor do the Jurymen ſay they had any Evidence againſt him, nor can they give a Reaſon why they did not credit Witneſſes in his Favour. To whom then do the Profecutors owe the Condemnation of him, and the poſſeſſion of his Eſtate near 4000 per annum. Why was Mr. Roberts the ſole Repreſentative of his Family Prohibited marrying? Might not Mr. Roberts tho' not of *Capacity ſufficient* to manage Affairs, be of Capacity ſufficient, (had he been ſuffered ſo to do,) to get Children of Capacity to ſucced him?

What was the Source, the Cauſe of all theſe Diſaſters, but the Departure from the true Senſe and Intention of the Law; the Subſtitution of, in the place of the Legal Subject of their Enquiry, *a new Matter unknown to our Laws* viz. *Capacity*; a Term looſe and Vague in itſelf, and capable of *diverſe* Interpretations.

See, Gentlemen, the bitter Fruits of the Verdict, the ſad Conſequence of departing from, and arbitrarily altering the Laws of our Country.

The Conſequenc is the utter Ruine of Mr, Roberts Family, and that will be ſoon followed by the Ruine of a thouſand other Family's, in like manner, if the Authors of this very bad Example are not properly checked and puniſhed.

God

God forbid, Gentlemen, I ſhould accuſe the Judges of having ſtrained the Law *wantonly*, to gain to themſelves Power; no, Doubtleſs-Theſe Evils are owing to the greedy Uſurpers of Mr. Roberts Fortune, and as you have heard were ſuggeſted thro' the Mouths of Commiſſioners at opening the Commiſſion at Exeter.

The Legall Queſtion whether Mr. Robers was Lunatick or Ideot or not, did not anſwer their *Ends* that would have defeated their *Scheme*: But the *Commiſſioners* by diverting the Thoughts of the Jury from the Law, and directing them to try *Capacity only*, and to find Mr. Roberts of unſound mind, got their Pill ſwallow'd; and their lurking Poiſon was not pereeived; Thoſe Maſter workmen were too wiſe to let their under Labourers into the Knowledge of their whole Scheme. To render their Villany complete to ſet aſide every Act of Mr Roberts, was their, Aim and to baſtardiſe his Children if any, this was their finiſhing ſtroke, therefore they cunningly inſerted the Words, *that he had not enjoyed an Intervall of Reaſon for twelve Years.* You, Gentlemen, of the County of Devon, have frequent Opportunitys of knowing the Truth of theſe things. A great Many of you paid Mr. Roberts Viſits, and Converſed freely with him Year after Year: Doth not the Shameleſs Report of the Jury ſo manifeſtly unjuſt, raiſe Indignation and Horrour in your Breaſts?

Gentlemen, if the Verdict was falſe and Malitious, as every one of you who were of Mr. Roberts Acquaintanee, who tranſacted Buſineſs with him, and who Correſponded with him by Letter, very well know; what muſt you think of the immenſe Sums of Money Expended in Law of the Sentences pronounced againſt Mr. Roberts and his Brother Dr. Finney? Their Condemnation in Coſts, and Confiſcation of their Eſtates and Effects, and of all the fatal conſequences of that fraudulent and impoſing Verdict? Can you find Words to expreſs the Villany of thoſe, who ſequeſtred and ſeized Mr. Roberts Eſtates, and divided the whole amongſt themſelves, to the Prejndice of his Relations and Lawfull Heirs; in whoſe favour he made a ratioual, juſt, and charitable Diſpoſition of his Effects, by a *Will* duly executed and properly atteſted, agreeable to all Forms of Law. You muſt know, Gentlemen, Mr. Roberts acknowledged for his Relations many Perſons in indigent Circumſtances, and charitably ſupported them in his Life time. How barbarous and cruel will it be, and what Scandal muſt it give to the whole World, if all Mr. Roberts Acts in their favour are to be made Null and Void, by this falſe and wicked Verdict and they left to ſtarve; Whilſt his whole Eſtate is actually in the Poſſeſſion of Perſons he never ſaw, who are no way allied to him, who claim the Inheritance under old Entails (vide Caſe, Factum of malines, ſtudent of Leyden) who Contrived and procured this Report from the Jury,

to

to Deſtroy Mr. Roberts and all his Acts to obtain the immediate Succeſſion.

What Law could interdict Mr. Roberts Marriage, if he was no Lunatick, what law could impower Dean Lynch to drag him out of his own houſe, to ſell him to Lightenhouſe, to ſtarve him in a Garret and to Suffer him to periſh there with Grief or Vomitts? or * * * we appeall to the Jurymen themſelves; I have ſaid, and will repeat it, many of them declare they did not deſigne nor intend *Lunacy*, by the Verdict, they now ſee the ſad Effects of it, and expreſs great Sorrow for what they have done. Severall of the Jury blame themſelves for their too great Eaſineſs and want of Reſolution to oppoſe it; and grieve that by their Silence they were made contribute and Yield to a Verdict which they know to be falſe.

Exhort them, Gentlemen, not to let their Repentance be fruitleſs; but to diſcover by what Intrigues and Artifices their Tongues were tied up. If they were Silent then, awake their Conſciences to ſpeak out now, we aſk nothing but their Teſtimony of the honeſt Truth. Aſſure them as they have returned Mr. Roberts *Lunatick* and are conſcious to themſelves that he was no Lunatick, and that they had no Evidence of Lunacy againſt him, they *Perjure* themſelves afreſh every day they live till they make Reparation, *its the ſame ſin continued and virtually repeated by them.*

If thro' favour to ſome particulars, or for private Conſiderations this Juſtice ſhould be denied us; Admoniſh them that this is the only Method left them to prevent the Publication of Certain Matters and Facts, they will not be pleaſed, the Nation ſhould be informed of. Out of Charity, Gentlemen we have ſpared them, and if this Confuſion befalls them they are to thank themſelves. I come to ſhew them the Way, if they are wiſe enough ſeaſonably to profit by this Admonition. There is Time and Opportunity ſtill left them in ſome Meaſure to retrieve what hath been done amiſs. But if they fear the Menaces of a Band of Attorneys, more than their own Conſciences, if they Regard the Perſuaſions of Sherif Polluxſen and the Proſecutors Agents more, than that faithfull *Counſellor*, that ſubſtitute of God in their own Breaſt: And have not the Honour and Honeſty to acknowledge their Error. We are furniſhed with authentick Proofs of all, *they have ſaid and declared of theſe tranſactions*, and ſhall expoſe them and their Conduct to the View of all Europe.

If you of the Jury are ſorry for what you have done, and wiſh with all your hearts you had not done it, yet are ſo unhappy as to deferr this moſt neceſſary Reparation to the laſt Moments of your Lives when the Conſciences of the worſt of men begin to work I beg to remind you of what you well know, and ought not to forget, the very bad Lives and miſerable Ends of Mr. Joſeph Taylor of Denbury

and

and of Mr. Josias Bracker, of the Life of the first, who had been a Juryman on the Tryal of Mr. Roberts and after that turned *Sollicitor* for the Prosecutors against him, your Publick news Papers do inform you. The other Josias Bracker one of the Prosecutors Sollicitors also, on his death Bed declared his Perjuries and other horrid Actions against Mr. Roberts, under the greatest Agonies of Mind, a late Confession! and in that State his Soul left his Body to appear and answer for his Crimes before the awfull Tribunall of an All-seeing Judge. Authentick Proofs of these things are at hand, and shall soon be made publick. As likewise proper Attestations in Form of all the Jurymen themselves have declared both before and Since the Death of Mr. Roberts with regard to Acts of his Persecution; If they refuse to do Justice themselves, others are not obliged to spare them; their Names shall be published at large, with a detail of Horrors capable of rendering all accomplices deservedly odious, and this will be the fruit of their further Silence.

Read, Gentlemen, the Annals of England, they'll inform you, that the County of Devon hath been famous in all Ages for giving Birth to great Men, Warriors, Patriots and learned Men, who have done Honour to their Nation by their Eminent Qualities. Ought you then to suffer the *Honour*, *the Lustre* of your County to be *sullied* by the infamous Prostitution of some Jurymen, and by the Pusilanimity of others who had

not Courage to ſpeak out, and to prevent the Ruin and Oppreſſion of a Country man, and the Extinction of an honeſt Family, which hath been an Ornament for Ages paſt to the Nation. No, Gentlemen, uſe your Endeavour to wipe of this ſtain, It is the Intereſt of every good and honeſt Man to ſee it done, and dont think it enough that you have it to ſay *I thank God my Hand was not to it*, as you all do who were not of the Jury. Let us all, let the publick have it to ſay, that all tho Devonſhire Jurymen have been impoſed upon by the wicked Artifices of Attorneys and others and have been ſo far miſlead by them as to countenance and encourage his Proſecution, thro Miſrepreſentations yet there are ſome honeſt Men of the ſame Jurys, who are willing and ready to do the injured Partys Juſtice, and to make the beſt Reparation they can by declaring to the World they did not deſign to return Mr. Roberts a *Lunatick*,. and that they did expreſſly ſay in open Court he is neither *Idiot* nor *Lunatick* before the Verdict was pronounced: And to diſcover by whom the Words that *Mr. Roberts had not enjoyed a Lucid Intervall for twelve Years paſt*, were inſerted in the Verdict, without Evidence of a Single Act of Lunacy.

Probably it will aſtoniſh the World to think how Supreme Courts of Judicature could be induced to favour the Condemnation of ayoung Gentleman under Such Circumſtances for a Lunatick, whom

whom ſo many Gentlemen knew, upon many Years acquaintance and Obſervation to be a Sober conſiſtent and rational Man. Nothing is more eaſy than for you to be fully informed. The Very men who adjudged and Sentenced him to loſe his Eſtate and Liberty and by Conſequence his Life upon that Pretence, are themſelves as I ſaid before now alive amongſt you. Aſk them Reaſons for their ſo doing; I doubt their Anſwers Will ſcandaliſe and offend you much. They muſt ſay it was not Mr. Roberts, but Dr. Finney they intended to injure, *That they ſhould not have reported Mr. Roberts Lunatick, but to remove him from Dr. Finney*, againſt whom, without any knowledge themſelves of the Man, they had been prejudiced by the evil Suggeſtions of ſome Malitious men and a Band of Attorneys. Aſk the Jurymen why they reported Mr. Roberts Lunatick for 12 Years? They'l tell you it was done to prevent Dr. Finney's being benefitted by any Act of His Brother in Law.

Aſk them, did it appear to you that Mr. Roberts had at any Time been ill treated or defrauded by his Brother? They muſt anſwer, he had not; But they'll ſay Mr. Roberts had Entailed ſome part of his Eſtate upon his only Siſter and her huſband Dr. Finney to the Prejudice of Sr. Stephen Anderſſon. Was it not juſt and natural to prefer a Siſter and Brother to a mere ſtranger? aſk the Jury, what the Fault of this Settlement was? They cannot tell you; but were told it

ought to be deſtroy'd, did not Mr. Roberts give the Jury a rational account of his making this Settlement and tell them, that Sr. Stephen Anderſſon was to him an Entire Stranger and that he made the Settlement out of Affection to his Siſter. The Jurymen muſt ſay he did tell us ſo. Had you a ſingle Evidene of any Act of Inſaniry, or the ſhadow or appearance of Lunacy in him The Anſwer muſt be, No, we had not.

Aſk the Jurymen, did Mr. Roberts or Dr. Finney ever offend any one of you? They muſt ſay, no. Had either of them Miſbehaved, in Word or deed, in their Country? They muſt ſay, no. What could poſſeſs you, Gentlemen, to deſtroy with ſuch avowed Malice without Cauſe Men you never knew? Speak Truth. *You were provoked to this by Attorneys, and perſons employd, by them.*

Judge you whether it is for the Honour of the Nation to ſuffer ſuch iniquitous Perſecutions to go off without exemplary Puniſhment. Are men to be thus Surpriſed and tricked out of their Right? And is this to be done under Coulour of Law openly? Conſider, a Dangerous Law is made for your Country, and perhaps for your Selves and your own Poſterity, if the Caſe of Mr. Roberts remains a Precedent. Power, Oppreſſion makes loug ſtrides, and the caſe of one may become the Caſe of Many, till at Length Liberty and Property ſhall be no more. If you will give men this wide Power of doing Miſchief, can you think that you ſhall never ſee More a Combination of Attorneys to deſtroy other Innocent

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Familys? or that their profitable Roguery will end here? No!

These Vile Catterpillars, these Locust will hatch others and eat up *every green Thing amongst you.* The greatest part of you who favoured this prosecution, we know, were not hurried on by the Propension of your nature to ruin innocent Men.

Recollect, Gentlemen, you were prompted to this by the undeserved Calumnys industriously spread and cast upon Dr. Finney, against whom you all had been prejudiced; His cruel sufferings, the Ruine of his Fortune, and of his Family (but for what Cause or Reason not one of you can tell) you have heard. He lived many Years in your County: And you know the strict and severe enquiry the Prosecutors of Mr. Roberts and their Attorney's made into the Life of Dr. Finney from even his Infancy, by erecting tyrannically a new and strange *Inquisition Court* against him. If they found him an immoral Man; if he has been a Spoiler of Orphans and a Pillager of his Neighbours, if he has been known in the Practice, of any infamous *Commerce with Mankind*, if he hath been guilty of any gross Ingratitude to his Benefactorts, or if he was cruel and unjust to his Brethren and undutifull to his Parents, let some one Fraud be set forth to make out the Charge against him, let some Proofs be brought to light. Let him be made infamous to the World, it will be a Plea for the Jurymen of your County, and in some degree excuse their violent Proceedings; but if no accusation can be brought against him,

if

if he was eſteemed by the Good and Wiſe in his Uuiverſity and Country, as he is pitied and eſteemed amongſt learned Men abroad, why is there not the ſame Humanity with you as on the Continent? Why not the ſame Love of Juſtice? to deliver him from his Oppreſſors who themſelves and Agents uſe all wicked Arts to rob him of what is dearer to an honeſt Man than his Life, his *Character and good Name*, and who publickly threaten him with abſolute Ruine. Radcliffs anſwer to Mr. Roberts Caſe ſee and who by Means of this Verdict have practiſed upon him all Tricks of Law to load him with the heavieſt Coſts, to drive the Unhappy complainant to ſuch a Diſtance that his Cries may no more be heard, and their wicked Actions therefore be no more enquired into.

I conjure you, Gentlemen, as honeſt Men, and Chriſtians, to make ſtrict and impartial Enquirys into the Truth of theſe Facts, and the Manner and Method whereby *this Verdict* was obtained, as the Vexatious Suit, and the whole ſubſequent moſt rigorous Proceedings have no other Foundation: If the *Verdict* is groundleſs, fraudulent and illegal, as you all in your Conſciences well know it to be, and as the Moderate and honeſt Men of the Jury themſelves declare daily, the compelling Dr. Finney to convey off his Right in the Barbados Eſtate in Conſequence of this *Verdict*, to which he had ſubmitted his Title truſting to the Laws of his Country. is great Injuſtice;

Injuſtice; the loading him with Fines and Coſts thereupon to his *Ruine* is Cruel; the taking advantage of this Verdict likewiſe to deprive him of his Wifes Eſtate in Kent *ſee Studient of Leyden Anſw.* &c. is cruell the attempts to ſet aſide Mr. Roberts *Will* executed and atteſted by well known reputable Gentlemen in all due Forms of Law upon no other Pretence but this *baſe Verdict*, and Solely by this *Verdict* alſo the Proſecutors ſeiſing and poſſeſſing Mr. Roberts Eſtates in prejudice of all his Relations, themſelves no way allied to him, I ſay theſe are ſurpriſals, Invaſions, and Roberrys, that deſerve the ſevereſt Puniſhments.

You ſee, Gentlemen, how things were managed; I repeat it again to you, inform yourſelves fully, and then join your honeſt endeavours and aſſiſt me in vindicating the Honour of your County, in ſhewiug juſt Indignation, and Abhorrence of ſuch Men; as Men Void of all ſenſe of Honour and common Honeſty, who know there was no Evidence of *Lunacy* given againſt Mr. Roberts, and that they did not intend to report, him a Lunatick, and yet will ſuffer a falſe Verdict Under their Names and Oaths, condemning a rational Man as Lunatick, to be impoſed upon the World; and to carry the Force, in Law, of a juſt and true Verdict to the Ruine of innocent and honeſt Familys, and thereby will be inſtrumental to the inflicting Puniſhments upon Men, Which the Law doth not Sentence them to; and who, inwardly ſenſible of the *deceit*, and that the

the Profecution was envious and Malicious throughout and yet will ſit ſilent. Looking on unconcerned at, this complicated Injury till it will be too late to repair it and ſo admit the *Guilt* of *Perjury*, which will ſtick by them and their Family forever. I am,

Gentlemen,

Your well Wiſher &c.

Oh! what Account can they give of Perjury or wilfull Breach of Oaths, wherewith they bind their Souls to live or periſh everlaſtingly, according to the Truth and Faithfulneſs, or the Deceit and Falſehood in them? The Preſence of God, the Appeal to that God, the calling God to be Witneſs now, and to be Judge hereafter, the laying Hand on his Holy Book, to avoid the Curſes, and to partake of the Bleſſings therein written. To pray ſeriously, *So help me God, So give me thy Grace, and all good things, So ſpare me in this world and ſave me in the next, as I am ſincere and faithful in the Oath I have now taken, otherwiſe, help me not in this Life, ſave me not in the Life Everlaſting.* Surely this is the higheſt Act of Religion. If men can play with ſuch Sacred things, if they can call the God of Truth to be Witneſs to a Lye, if they can promiſe in his Name, and in his Sight, what they care not, what they will not perform, this is the moſt preſumptuous Sin, moſt Exceeding Sinfull! It overturns all the Foundations of Human Juſtice, of Civil Government, of common Chriſtianity. There is an End of all Law, and of all Religion. If ſuch Iniquity abound, the Land muſt *mourn* and Curſes will come upon Perjured People. Do not Countenance this Sin, it muſt be abominable

minable in the Sight of God, and it muſt be deſtructive of all the Rights of you and yours. Look back on former Ages, and *take care of your Poſterity.* Be *ſtedfaſt* to your *known Laws,* reſent not only the groſs and open Violations, but be jealous of, and avoid the very *Appearance of Innovations in them.* Say not of a light Breach, or Change, as Lot did of Zoar, *is it not a little one?* and ſo comply with it. For believe me, a ſingle Treſpaſs on the Conſtitution, *wilfully committed,* is like a ſingle Grain, that yeilds a great Increaſe. Indulge no fair Opportunity, nor connive at the Inſolent way of playing with Oaths, as it were, jeſting to break aſunder the Bonds thereof. This will by Degrees take away all your Liberties and Properties and your very Lives. If a Faſhion ſhould obtain for having Oaths in Contempt, and for toſſing them about at pleaſure, this will diſſolve all Government, and deſtroy all Juſtice. Why? Then the Prince may break his Coronation Oaths and be a Tyrant Oppreſſor. The Judges may abſolve themſelves from their Oaths, and become Spoilers and Robbers of the Nation.

Juries, the antient Bulwark, and Glory of our Conſtitution, may diſtinguiſh away the Laws,

Laws, and their Oaths, be influenced by wrong Meaſures, to call thoſe *Impulſes their Conſciences*, i. e. the full perſuaſion of their own Mind, when they are but either an Obſtinate Humour, Prepoſſeſſion and deep Prejudice, or Sordid Intereſt, *and goe unhappily after the Spirit of Deluſion, and call that the Spirit of Truth.* When Mens Jugdments are thus to be dazzled with falſe Lights, and their Minds can be ſo poiſoned as to forget their Oaths, and to bring their *Paſſions* only to Courts of Juſtice, then will ſpread abroad your Petty *Oracles* and *Retailers* of the Law, and theſe will Swarm in all your Borders, *trading with Money, and Oaths.* Theſe Whiſperers will hang together and ſeek their Prey among you in Gangs. Witneſs's will be found, to appear, and ſwear you out of your good Name, your whole Eſtate and your very Lives. Then comes *venal Eloquence* driving them as the Evil Spirit did the Swine, *Violently down Steep places.* So may any falſe Verdict be Juſtified. For all Juſtice depends on Truth, and where that is artfully vailed over, concealed or misrepreſented, the *Judges* of the Land are deceived in Facts, and can only waſh their hands, and ſay, *I am innocent* as to this *Matter, See ye to it.* I wiſh to God there were few ſuch Reprobates and Apoſtates from

Engliſh

Engliſh Honeſty and Chriſtian Faith. I hope there are few in the Land. If it become a National Sin, it muſt bring a Scandal and a Judgment upon the Nation. It muſt make our *Land to mourn* and to be the Seat of Infamy and Deſolation. Oh! a ſacred ſerious Senſe of Oaths, and the ſtrict Obligation of them, is one of the chief things belonging to our Peace and Security, now and hereafter. *See a Sermon preached on the Funeral of Henry Roberts, Eſqr.* July 23. 1745.

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